

Jefferson County Circuit Court
Case Files - Civil
December 1886

Box 38 Folder 35

Ruppel, Christopher

vs.

St. Louis, Iron Mountain &
Southern Railway Co.

Appeal

Defendant appealed from JP
Thomas A. Williams on \$100
damages for killing one cow

Before Thomas A. Williams Esq.
Justice of the Peace
Central Township Jefferson County
State of Missouri

Christopher Ruppel, Plaintiff,
of
The St. Louis Iron Mountain &
Southern Railway Company,
defendant.

The plaintiff states that the defendant was on May 22, 1886 & prior thereto a corporation duly organized under the laws of the State of Missouri & engaged in operating a railway in said Central Township in Jefferson County State of Missouri, & through said County;

that on said day & continuously for a long period prior thereto, the defendant failed & neglected to erect & maintain along the line of said road, a good & sufficient fence where the same passes through, along & adjoining uninclosed lands in said Township & County;

that on said day by reason of said failure & neglect, a fine & valuable milch cow, the property of plaintiff, got upon the right of way & railway track of the defendant from said adjoining, uninclosed lands, at a point in said Township where to the defendant's knowledge & to the knowledge

of its officers & employees, & within their means of knowledge had they exercised reasonable diligence & made reasonable observation & inquiry, the defendant had failed & neglected to erect & maintain a good & sufficient fence, but where such fence could have been made by the defendant had it desired to do so, & not at a public or other crossing, & not within the limits of any town or city, incorporated or otherwise; & said cow being then & there as aforesaid upon said railway in consequence of the failure of the defendant to erect & maintain a good & sufficient fence as aforesaid, the defendant, by its engines & cars moving thereon, did then & there strike & kill said cow;

that said cow was of the value of fifty dollars.

Plaintiff says he has by reason of the premises been damaged in the sum of one hundred dollars, being double the value of said cow, & therefore prays judgment for the sum of one hundred dollars & costs.

Jos Tatum
Atty for plaintiff.

Christopher Ruppel

"

St. Louis S. M. & S.
R. way Co.

Complaint.

Filed Sept. 18, 1886

Thos. A. Williams

Justice of the Peace

Filed Dec. 4th. 1886

C. Ho. H. H. H.
Clerk

No

SUMMONS. - J. P.

Rev. Stat. of Mo.
Vol. 1, Sec. 2860.

The State of Missouri, to the Constable of *Central*
Township, in the County of Jefferson, State of Missouri, Greeting:

We command you to summon
*The St. Louis Iron Mountain &
Southern Railway Company*

to appear before the under-
signed, one of the Justices of the Peace of *Central* Township, in Jeffers-
son County aforesaid, on the *Second* day of *October*, 188*6*, at

10 o'clock in the forenoon, at his office, in the same Township, to answer the complaint of
Christopher Raphael
founded upon a complaint filed for killing a cow
and wherein he demands *one hundred* DOLLARS.

Given under my hand this *18th* day of *September*, A. D. 188*6*
Thos. F. Williams
Justice of the Peace.

CONSTABLE'S RETURN.

[Rev. Stat., Vol. 1, Sec. 2861.]

I HEREBY CERTIFY, That I have executed the within Writ by delivering a copy of said summons together with a copy of the complaint thereto attached, which said copy of the summons & copy of the complaint were furnished to me by Thomas A. Williams Esq. the Justice who issued the within writ of summons, to B. Marsden the station agent of the St. Louis Iron Mountain & Southern Railway Company the within named defendant at Victoria station of said defendant on the eighth day of September

Township, Jefferson county, Missouri.

FEE, \$1.30

John Ford, Constable.

No.

SUMMONS.

Chris. Ruppel
Plaintiff.

vs.

St. Louis F. W. & S. R. way Co
Defendant.

BEFORE

Thos. A. Williams
Justice of the Peace.

| | |
|----------------------------|------------------|
| Amount Plaintiff's Demand, | \$1.00. |
| Costs already accrued, | - \$ |
| Constable's Commission, | \$ |
| Constable's Fee, | - - - \$ |
| Constable's Mileage, | - - - \$ |
| Total, | - - - - \$ |

*Filed Dec. 4th 1886.
C. H. O'Hanna
clerk*

C. Ruppel

} Plaintiff.

VS

ST. LOUIS IRON MOUNTAIN & SOUTHERN RAILWAY CO.
DEFENDANT.

State of Missouri }
County of Jefferson } ss.

Before *T. A. Williams*
Justice of the Peace.

STATE OF MISSOURI.

County of *Jefferson* } ss.

Now, at this day, comes the defendant, by its Agent, and moves the Court to grant an appeal from the judgment rendered in said cause, and states that the application for this appeal is not made for vexation or delay, but because he believes the appellant is injured by the judgment of the Justice.

Sworn to and subscribed before me, this *11th*
day of *October* 188*6*.
Witness my hand and seal
Thos. A. Williams, J.P.

C. Mansfield

We, the undersigned, ST. LOUIS, IRON MOUNTAIN & SOUTHERN RAILWAY COMPANY, as principal, and *R. K. Kraus & S. D. Barlow* as sureties, acknowledge ourselves indebted to *C. Ruppel* plaintiff in the above entitled cause, in the sum of *Two Hundred* Dollars, to be void upon this condition: Whereas

ST. LOUIS IRON MOUNTAIN & SOUTHERN RAILWAY COMPANY has appealed from the judgment of *T. A. Williams* a Justice of the Peace, in an action between *C. Ruppel* Plaintiff, and the ST. LOUIS, IRON MOUNTAIN & SOUTHERN RAILWAY COMPANY, Defendant. Now, if said Defendant will prosecute its appeal with due diligence to a decision, and on such appeal the judgment of the Justice be affirmed, or if, on the trial anew in the Circuit Court, judgment be given against appellant, and it shall satisfy such judgment, or if its said appeal shall be dismissed, and it shall pay the judgment of the Justice, together with the cost of appeal, this recognizance shall be void.

St. Louis Iron Mountain & Southern Railway Company.



Approved this *11th* day of

October 188*6*

Thos. A. Williams
Justice.

By *R. M. Horne* [SEAL.]
President.
Frederick Hill [SEAL.]
R. K. Kraus [SEAL.]
S. D. Barlow [SEAL.]

No. ~~27~~ 23 6366

State of *Kippan* }
County of *Jefferson* } ss.

Christopher Ruppel

vs.

St. Louis, Iron Mountain and Southern
Railway Co.

◆◆◆
APPEAL BOND.

Filed Dec. 4th, 1886

C. H. Overman

Clery

Before Tho. A. Williams Justice of the Peace
of central Township, Jeff. Co. Mo
Christopher Ruffel Plaintiff
Vs

The St Louis Iron mountain and southern
Railway company Defendants

Filed Sep 18th for suit 1886

On account for stock billed. summons
issued against defendants returnable
OCT 2th 1886 at ten o'clock. A. M. and
delivered the same to the constable

Tho. A. Williams. J. P.

OCT 2th 1886 summons returned duly
served on the law directs and the coming to be
heard comes the plaintiff but the defendants
comes not all though three times being
called makes default and the Justice after
hearing the evidence of plaintiff doth find
for the plaintiff the sum of one hundred
dollar so found as aforesaid together with
cost of this suit expended taxed at \$3.20
Now at this 11th day of Oct 1886 comes defendants
by agent and moves the Justice to grant and appeal
which is granted and the papers in the
case are sent to the circuit clerk of the
circuit Court of Jeff. Co. Mo

Tho. A. Williams

Fee Bill

| | |
|--------------|---------|
| Justice fees | |
| 1 Summons | 35 |
| Doc-In- | 20 |
| Judgment | 50 |
| recognitions | 35 |
| affidavit | 35 |
| Certificate | 15 |
| | <hr/> |
| | \$ 1.90 |

| | |
|----------------|---------|
| Forest | |
| Constable fees | |
| 1 Summons | 30 |
| Milidge | 1.00 |
| | <hr/> |
| | \$ 1.30 |

Witness for Plaintiff

Tho. A. Williams
 Frank Vaughn
 John Kingard
 Barny Roathman
 Frank Lavis

Filed Dec. 4th. 1886
 C. H. Stone
 Clerk

STATE OF MISSOURI, }
COUNTY OF JEFFERSON, } ss.

The State of Missouri to

Mrs. A. Williams

You are hereby commanded that, setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the *12* day of *January*, 18*87*, at *9* a. m., at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in said Court, wherein

Chris Ruppel

plaintiff, and

Adonis J. Mc. vs. Ryles

defendant, on part of *Left*; and herein

you are in no wise to fail.

WITNESS, D. B. VEAZEY, Clerk of our said Court, with the Seal thereof hereunto affixed, at

office, this *10* day of *January*, 18*87*.

D. B. Veazey, Clerk.

Purpoe

15

Sho. J. M. By Co -
~~Sho. A. Williams~~

D.

Sho. A. Williams 11

Filed Jan'y 15 1887
D. B. Carey
clerk

Executed the within Subpoena in the County of Jefferson
State of Missouri on the 11th day of January
1887 by reading the same in the presence & hearing
of the within named Sho. A. Williams.

Fee 50 ¢

Sheriff
by R. Richardson Deputy

STATE OF MISSOURI,
COUNTY OF JEFFERSON,

The State of Missouri, to

John A. Williams, Ch. Vaughn
John Vinyard & Frank Jarvis
B. Rothman

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the *12th* day of *January*, 18*87*, at *9* a. m., at Hills-

boro, then and there to testify and the truth to say in a certain matter of controversy now pending in said Court, wherein

Christopher Ruppel

is plaintiff, and

Alfred, Dan & Mountain & Ry. Co.

is defendant, on part of

Alff.

; and herein

you are in no wise to fail.

WITNESS, C. THO. HORINE, Clerk of our said Court, with the Seal thereof hereunto affixed,

at office, this *25th* day of *Dec.*, 18*86*,

C. Tho. Horine, Clerk.

50

Victoria

Ruppel

St. Louis, Mo. S. R. Co.

Lu

Tho. A. Williams - 6/87
 C. F. Vaughn - 6/87
 John Vinyard - 6/87
 Frank Jarvis - 6/87
 R. Rothman - 6/87

Filed Jan 10th 1887
 D. B. Veagey
 Clerk

Executed the within Subpoena in the County of Jefferson
 in the State of Missouri on the 6th day of January
 1887 by reading the same in the presence & hearing
 of the within named Tho. A. Williams, C. F. Vaughn
 John Vinyard, Frank Jarvis, and R. Rothman.

Fees \$2.50

George W. McFay
 Sheriff

by J. B. Stewart Deputy

Panel

6 Ruppel

vs

St. L. & N. Ry Co.

- 1 Le Ho. Smith
- 2 John Engleback
- 3 Henry Kerner T
- 4 John Shelton
- 5- Lawson Grazier T
- 6 Henry Staat T
- 7 Wm Huskey T
- 8 Wm Williams T
- 9 Jos. Metts T
- 10 Jos Webbles T
- 11 John Starness
- 12 D. C. McCormac

205
 104

 101

C. Ruppel
vs
And. J. Mrs. Co. N.Y.C.

Panel

Filed Jan'y 13/87
D. B. Keagy
C. H. W.

The Court instructs you that if you believe and find from the evidence in the Cause that in Central township, Jefferson Co., Mo., the defendant by its agents ran its engines & car against ^{or killed} a cow, the property of the plaintiff, at a point on its road where the road ran along unenclosed land and where there was no public crossing and where the road was not enclosed by a fence composed of posts and poles, posts and wire ^{or} posts and planks or palisades at least four and half feet high or of rails at least five feet high then you will find the issues for the plaintiff. If you find from the evidence that the cow in question

got onto the right of way of defendant
at a point where the road was fenced
with posts & planks at least four
or half feet high then you will
find the issues for the defendant
even though you may further
find that at other points ~~the~~
the road was not fenced as specified
in the foregoing instructions.

If you find for the plaintiff you
will return in your verdict the
value of the cow at the time she
was killed.

C. Ruppel

vs
Shelby, Mrs. S. Ry. Co.

Instructions

Filed July 13/87

D. B. Neager
CEN

We the jurors find the issues for
the defendant in the case of
Christopher Reppel against
The St. Louis, Iron Mountain
and Southern Railway Company.

Lawson Brazier
Foreman.

C. Ruppel
vs
H. M. & S. Ry. Co.

Verdict

Filed June 13/87
D. B. Neasey
clm

Chris. Ruppel } Circuit Court
of } Jefferson County
St. Louis Iron Mtn } Missouri
& S. R. Way Co. } January Term 1887

Plaintiff moves the Court
to set aside the verdict & judgment
herein & grant him a new trial
because

1. The verdict is against the
law & the evidence & the weight
of the evidence.
2. The Court erred in its instruction
to the jury.
3. Plaintiff & his attorney were taken
by surprise by the testimony of John
Patton a witness for the defense as
will appear in affidavits filed & to be filed.
4. Since the ~~judgment~~ ^{verdict} was rendered
verdict was rendered plaintiff has
discovered other testimony material to
the cause which was before unknown
to him & could not be procured before, as will
appear by affidavits filed & to be filed.
5. Perjury or mistake was committed
by said witness Patton in his testimony
upon the trial of this cause in matters
of vital materiality in this cause.
6. For these & other matters & things
appearing by the affidavits herewith
& to be filed.

Jos. Patton
atty for self.

Chris. Raphael
of

St Louis Iron Works
Railway Co.

Motion for new
trial

Filed June 17/87
J. B. Leary
clerk

Chris Ruffel } Circuit
" } Court
St. Louis Iron Mt- & S. Rwy Co } Jefferson
County Mo.

State of Missouri }
County of Jefferson } Sw.

Robert Cosby, ^{of lawful age} being duly
sworn on oath says: I am of lawful
age, occupation farmer—

I was informed by ^{James} Christopher
^{McGanley} Ruffel last spring that a cow
belonging ^{to Chris Ruffel} to ~~him~~ has been killed
on the Railway between De Soto &
Victoria on the morning after
she was killed late last spring,
~~don't~~ remember the date, on the
day before she was killed two of
my yearling calves were inside
the right of way of the Railway Co
in front of Frank Jarvis' house
near where that cow was killed.

I drove them & they went out at a
place a short distance South at
a place where the railway fence
was down, there being but one board,
the bottom board, nailed on, the top
board had one end nailed on & the other
end was on the ground, there were no
other boards nailed on at that
place; my calves got out of the
right of way at that place on to
the open uninclosed range East of
the railway without having to jump,

they merely stepped over that bottom plank & the end of that top plank or near ^{the end of that top plank, there being a space between that end & the post.}
I resided then & now East of the gravel road between De Soto & Victoria near to Victoria. I have no interest in this action. I was shown yesterday by Thomas A. Williams the spot where he said John Patton pointed out to him as the place where he saw Ruppel's cow jump the fence from the West side of the railway.

I measured & saw measured that fence for several panels at that spot & found that many of the panels to the top board from the West side are but less than four feet high, but one end of but one panel being four feet three inches ^{high} & another end of one panel being but four feet one inch, ^{high} ~~at~~ all other places being less; at no place is the fence in that locality from the West side higher than four feet three inches & but one spot of that height as above stated. The highest ~~part~~ point of the fence in that neighborhood on the west side of the railway right of way is four feet four & one quarter inches but that is not the place pointed out to me as the spot where the cow jumped over.

R. Early

Subscribed & sworn to before me this January 17th 1887.

Thos. A. Williams
Justice of the Peace
Central Township Jefferson
County Missouri.

Chris Ruppelle } Circuit
of } Court
St. Louis Iron Mt & S. R'way Co } Jefferson
County Mo.

State of Missouri }
County of Jefferson } ss.

Frank Vaughn of lawful age being duly sworn on oath says:
I heard the testimony of John Patton at the trial of this cause in above named Court last week. I was shown yesterday by Thomas A. Williams the spot where he said to me John Patton, who testified in this cause, had yesterday morning pointed out to him Williams as the place where he saw Ruppelle's cow jump the fence from the West side of the railway. I measured & assisted in measuring that fence at that spot. It is the fence called the rail road fence where the railway of the defendant passes through my farm being the division fence between the railway & my land on the West of the right of way of the defendant. The fence is composed of posts & boards nailed horizontally to the posts; the posts are about eight feet apart, panels are about sixteen feet long. At the point where Thos Williams said the cow jumped as above stated the height of the fence to the top of the top board right at the fence is four feet three inches, at the distance of eighteen inches from

the fence & at right angles therewith & for some distance back Westwardly from the fence the ground is higher than right at the fence the perpendicular height to the level of the top of the top board of the fence being about four feet. The railway there lies north & south. The ~~far~~ said fence north & south of that spot where the said cow is said to have jumped for several panels ranges ~~from~~ in perpendicular height from four feet three inches to three feet seven inches. The said spot is the sixth panel of the fence north from the gate at the farm crossing. I measured from that gate north twelve panels of sixteen feet each about. none of those twelve panels are in perpendicular height as much as four feet six inches. These twelve panels are old fence. The railway fencing gang repaired ~~along~~ the fence along those twelve panels about two years ago ~~in~~ a few places & left three panels in the condition in which they ^{are} now. At the time they made those repairs said twelve panels were at no point four feet six inches in perpendicular height from the ground to the top of the top board they did not raise the height any, ^{except in a few places where the top board had come off.} & ever since they made said repairs the height of the fence perpendicularly as aforesaid was then & has continued to be the same as it is now as above stated & as measured by me on yesterday. On the

opposite side the railway fence, ^{at one hand} is only
from two feet ten inches to 4 feet in per-
pendicular height where cattle have
access & has been in that condition
for several years past up to now con-
tinuously. On yesterday evening
after measuring said fence I met said
witness John Patton & told him Patton
that Tom Williams had shown me that
morning the spot where Thomas Williams
said he Patton had pointed out to Williams
that morning as being the place where
Rappell's cow that was killed had jumped
the fence as testified to by Patton on the
trial last week in the said Circuit Court
at Hillsboro. Said Patton admitted to
me that he Patton had so shown to said
Williams the said spot. I said to said
Patton that I had been measuring the
fence at that spot & that it was not of
lawful height. I also said to him Patton,
you did not know how high the fence was
because you never measured it, & he
said Patton answered no.

I have no interest in this action.

O. F. Vaughan

Subscribed & sworn to before me this
January 17, 1887

D. B. Veazey
Clerk

(Over.)

Thomas A. Williams of lawful age being duly sworn on oath states:

I have read over the foregoing statement signed by Frank Vaughn. I was with him when he measured the fence as stated by him & his statements in the foregoing affidavit as to measurements are correct.

I met John Patton yesterday morning near the locality testified to by him on the trial of this cause last week & he Patton proceeded with me & pointed out to me the spot where he said the cow of Ruppel which was killed on the railway last May was testified to by him in this cause jumped the railway fence, & he also showed me where he was when the cow jumped. The place where he ~~was~~ ^{was} when the cow jumped is north of the place where he says the cow jumped so that as he was going north he had to turn around to see the cow. I pointed out to Frank Vaughn said spot & saw him make the measurements. They are correct as stated in the foregoing affidavit. I also pointed out the said spot to Robert Cosby & Frank Jarvis.

I have no interest in this action

Thos. A. Williams

Subscribed & sworn to before me this
January 17, 1887

D. B. Veazey
C. C. W.

Chris. Ruppel

of

St. Louis Iron Works & S.
Rivway Co.

Affidavits of
Robert Gasby &
Frank Vaughan &
Thos A. Williams
in support of motion
for new trial.

Filed June 17/87
D. B. Keizer
ckh

Chris Ruppel } Circuit Court
of } Jefferson
St Louis Iron Mt & S. Ry Co } County Mo.

State of Missouri }
County of Jefferson Mo. }

Frank Jarvis being
of lawful age being duly sworn on oath
says. I was on the railway on January
16, 1887 when Thomas A. Williams pointed
out to Frank Vaughn Robert Cosby & myself
the spot where said Williams informed us
that the witness John Patton who testified
in this cause pointed out to him Williams
on that morning as being the place where
Ruppel's cow jumped the fence as tes-
tified to by him. I was present in
Court & heard John Patton testify.

I saw Frank Vaughn then measure
a number of panels of the railway fence
in that same locality & especially the place
which said Williams pointed out to
us as the place where said cow jumped
according to said Patton. In no place
is that said fence as much as four feet
six inches in height perpendicularly from
the ground to the top of the top board.

I have read over the affidavit of said
Frank Vaughn as sworn to before the
Clerk of the Circuit Court on ~~the~~ January
17, 1887 entitled in this cause as above.
His statements in said affidavit as to
measurements & heights of the fences are

true & correct. I have also read over
the affidavit of Robert Cosby in this
same cause. His statements in said
affidavit as to the fence near my house
are true & correct. I have no interest
in this suit. Frank A. Jarvis
subscribed to and sworn
to before me this 18 day
of January 1887

Thos. A. Williams
Justice of the Peace
of Central Township
Jefferson county Missouri

Chris Raphael
of
S. L. S. Wood Ray
Co.

Affidavit of
Frank Jarvis
in Raphael's motion
for new trial

Filed Jan 19/87
D. B. Vealey
C.M.

Chris. Ruppel } Circuit Court
v } Jefferson
St. L. & M. & S. Rwy Co } County.

Christopher Ruppel being duly sworn on oath says: I am the plaintiff in this cause & have a good & meritorious cause of action as I verily believe.

I was taken by surprise by the evidence of John Patton witness for defense.

I had been informed before the trial that said Patton would testify he saw a cow jump the railway fence on the day my cow was killed & that he did not know whose cow it was.

I did not know nor did I ever hear that said Patton would swear more than as above & especially that he would swear to the spot where ~~the~~ cow he saw the cow jump, nor that he would swear the railway fence at that spot was a lawful fence.

The railway fence being lower than four feet & bad in many places much nearer to the place where my cow was killed than the spot where said Patton testified he saw the cow jump, I was entirely taken by surprise by his testimony.

There was positively nothing to lead me to expect or imagine that said Patton would testify as he did. In order to get to the spot where she was killed from the place

where said Patton testified he saw her jump she ~~was obliged~~ would have been obliged to pass through a long rocky defile or cut & travel over one half mile whereas there were much nearer & easier places for her to get out the railway. Since the judgment was rendered herein I have discovered evidence material to this cause to prove that said Patton testified falsely herein or that he was mistaken in his testimony in matters of vital issue & importance in this cause as will appear by the affidavits of Thomas A. Williams Frank Vaughn Robert Corby & Frank Jarvis filed in support of motion for new trial & if granted a new trial I have every reason to believe & do believe that I can procure the testimony of above named affiants to prove the matters set out in their affidavits & also testimony discovered only since the trial that my said cow was at home & was not turned out to graze until after six O'clock P.M. of the evening on which she was killed & that it would have been physically impossible for my cow to go or even a running horse at full speed to have gone from my house around to the place on the Westside of the railway where said Patton testified he saw the cow jump the fence & can procure such testimony to prove such facts at a new trial of

this cause. Moreover the fence at the place where said Patton testified he saw said cow jump is much less than four feet six inches in perpendicular height. Before the trial of this cause I did not know that my cow jumped said fence at said place, nor do I now believe it, nor did I then know that said Patton would so testify, nor had I any reason to believe or think he would so testify, nor did I then know the height of said fence at said place nor was I prepared to prove the said height there being nothing in this cause to direct my attention to said spot nor to the height of the fence in that locality being over one half mile distant from the place where she was struck by defendant's engine.

There was nothing in this cause or otherwise to direct my attention to said affiant's statements until after the trial. It was not owing to the want of due diligence that I did not sooner discover said evidence as there was nothing to direct my attention to it until after said Patton had testified & no opportunity had I to make investigation during the trial. Said evidence is not cumulative merely & the object thereof is not merely to impeach the character or credit of any witness in the cause but is so material that it will as I sincerely believe produce a different

Result if I be granted a new trial
in Ruppel

Sworn and subscribed to

before me this 19th day of January 1887

D. B. Veazey
Clerk

Chris Ruppel

S. L. S. M. S. L. R. W. W.

Affidavit of

fact in support
of motion for
new trial.

Filed Jan 19/87

D. B. Veazey
Clerk

Chris Ruppel
 of
 St. Louis I. M. & S. Ry Co } Circuit
 Court of
 Jefferson
 County

State of Missouri }
 County of Jefferson } ss

Elizabeth Woher
 of lawful age being duly sworn
 on oath says: I am the daugh-
 ter of Christopher Ruppel; during
 last May I lived at my father's
 house east of & near the gravel
 road between De Soto & Victoria.
 It was my business to milk
 the cows; I always milked the
 cow belonging to my father which
 was killed on the railway near
 Jarvis' house last May; I milked
 the cows about sundown. I remember
 distinctly the last time I milked
 her; it was on Saturday eve just
 about sundown. I milked her
 & then let the calf to her for a while;
 after the calf had sucked I turned
 the cow out on the range to let
 her graze & keep her away from her
 young calf; when I turned that cow
 out it must have been considerably

past seven o'clock. While I was living with my father at that time I had household work to do; it was my practice at that time to prepare the supper first & then do the milking & that was what I did on that last Saturday evening.

I prepared the supper & then about sundown proceeded to milk & after turning the cow out I went back to the house to supper & it was then dark. I am positive that at seven o'clock of the night that cow was killed & for some considerable time after ^{seven} ~~supper~~ that cow was at home. She did not come up next morning to her calf & I heard then she was killed.

She could not have got from home around to the west side of the railway until long after dark.

I have since then married Mr. Fred. Moker & now live in De Soto.

Elizabeth ^{her} Moker
mark

Subscribed & sworn to before me
this January 25, 1887

Daniel H. Park
Notary Public
Term expires October 10th 1887

Ruepfel

"

vs Ruy

Affidavit of
Elizabeth Woher
in support of motion
for new trial.

Filed July 27th 1887

D. D. Veager

Clerk

W

SUBPOENA.--CIRCUIT COURT.

STATE OF MISSOURI, COUNTY OF

Jefferson

} ss.

No. *46*

THE STATE OF MISSOURI, vs.

Mrs. A. Williams

You are Hereby Comanded, That setting aside all manner of excuse and delay, you be and

appear in proper person, before the Judge of our Circuit Court, at the Court House in the *WAZZ*

of *Atillabro*

, within and for said County, on

May

A. D. 1887, then and there

to testify and the truth to speak, in a certain matter of controversy now pending in our said Court,

wherein

Le Grapfal is

Plaintiff,

and

The Wazors & M. & Co

Defendant,

on the part of said

dependent

, and this you shall in no

wise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

WITNESS my hand and the seal of our said Court. Done at

office in *Atillabro*

in said County, this

10th day of

May

A. D. 1887

H. B. Geary Clerk.

By

Deputy Clerk.

SUBPOENA.--CIRCUIT COURT.

STATE OF MISSOURI, COUNTY OF

J. J. Brennan

} ss.

No. *24*

THE STATE OF MISSOURI, To

*Thos. Williams, Plaintiff**Mary Ann Robert Cooky, vs. Jiggie Mather & Francis Jarris**You are Hereby Commanded*, That setting aside all manner of excuse and delay, you be and

appear in proper person, before the Judge of our Circuit Court, at the Court House in the town

of *Stillsboro*

, within and for said County, on

*Wednesday*the *11th*

day of

*May*A. D. 188*7*, then and there

to testify and the truth to speak, in a certain matter of controversy now pending in our said Court,

wherein

Christophus Ruffel is

Plaintiff,

and *Thaddeus Ben Meridiansky, Co. is*

Defendant,

on the part of said

Plaintiff,

, and this you shall in no

wise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

WITNESS my hand and the seal of our said Court. Done at

office in

Stillsboro

in said County, this

3rd

day of

*May*A. D. 188*7**Wm. B. Lewis* CLERK.

By

DEPUTY CLERK.

SUBPENA.

No. 24

CIRCUIT COURT

Of Jefferson Co., Mo.,
May Term, 1887

Cristopher Ruppel

vs.

St. Louis Iron Mountains
& So. Ry. Co

PLAINTIFFS'

WITNESSES.

~~DEFENDANTS~~
Day of Trial May 11th 1887

Thos. Williams May 6, 1887

Frank Vaughn May 6, 1887

Robert Cosby May 6, 1887

Lizzie Mohr May 6, 1887

Frank Jarvis May 6, 1887

Filed May 9th 1887
D. B. Weaver
clerk

RETURN.

I hereby certify that I served the within Writ in the County of Jefferson
and State of Missouri, on the 9th day of May, 1887, by

of the within named, Thos. Williams, Frank
Vaughn, Robert Cosby, Lizzie Mohr and
Frank Jarvis
J. B. Weaver
Jury, Sheriff

George M. O'Flynn, Sheriff
by R. Richardson Clerk

The Court instructs the jury that if they believe from the evidence that the cow in question jumped over the railroad fence at the point testified to by the witness Patten and that the said fence at the said point was originally built to a height of four feet and a half or more and that said the height of said fence had been reduced in course of time by being filled up at the bottom with earth until it was three inches ^{or more} and that said fence at the time said cow jumped over the same was sufficient to turn the ordinary stock that is not breaking your neck price a verdict for the defendant.

Respectful

^{ly}
The R. R. Co.

Respectfully,
Instruction

Filed May 17th 1887
D. B. Weagy
Clerk

C. Ruffel }
The R. R. Co. }

The Court instructs you, gentlemen of the jury that this is an action to recover double damage for a Cow alleged to have been killed by dependant's engine or cars. The dependant is not liable in this action unless the Cow in question got upon its track at a point thereon where it was not enclosed on both sides by a fence four and a half feet high constructed of boards and posts. If she got on to the railroad track at a point where the road was enclosed on both sides by a fence of boards and posts four feet and a half high then the Company

is not liable. Now if you believe
and find from the evidence in
the case that the ^{plaintiff's} cow in dispute
came upon defendant's road at
there was no public crossing and where
a point thereon where it runs through
unclosed ~~or~~ land and where the
road was not enclosed ^{on both sides} by a fence
of boards and posts at least four and
a half feet high and ~~that this~~ ^{that cow}
was struck & killed by defendant's
engine and that this occurred
in Central township Jefferson Co. Mo
in May 1886 then you will find
the issue for the plaintiff. Or
if you find from the evidence
in the case that the cow got onto
defendant's road where it was

not enclosed by a fence of boards and
posts at least four and a half
feet high but where the road
runs through or along a fenced
field and that this fenced field
was not enclosed by a fence at
least four and a half feet high ^{or a wooden fence} if made of boards posts or wire ^{or made of rails} and at the point where the cow got
out onto the railroad track was not
at a public crossing and that
~~the~~ the cow was struck & killed
by defendant's engine ~~that~~; that
this occurred in Central Township
^{in May 1886} afterward, then you will find the
issues for the plaintiff. But if
you find that the point where
the cow got onto the railroad track

There was a fence of posts and posts
four and a half feet high then
you will find the issues for
the defendant. If you find
that at the point where the cow
got onto the track the railroad
Company originally built its fence
at least four and a half feet high
and that by the cultivation of the adjacent
land or by the action of the water ^{or by both} the
ground had filled until the ~~fence~~
~~was~~ height of the fence was reduced
~~below~~ ^{below} four and a half feet ~~high~~
and defendant's agents and employees
did not know ~~this fact~~ and by the
exercise of reasonable diligence could
in time to have corrected this before the cow got there
not have known this fact, or if at

such point the fence was originally
built four and a half feet high
but some of the boards got knocked
off so that ^{it} was not at the time the
cow so got in of its requisite height
and that defendant's agents and
employees did not know and
by the exercise of reasonable diligence
could not have known & this fact
in time to have repaired it before
the cow ~~was~~ upon the track
then in either case the defendant
corporation is not liable. But
in any event before you can find
for plaintiff you must first
find from the evidence that
the cow strayed upon the railroad

hook because the fence was not
four and a half feet high and
unless you so find your verdict
should be for defendant.

If you find for plaintiff you
will return in your verdict the
value of the cow at the time she
was killed. You have nothing
to do with doubling the value of
the cow; that is done by the court.

Record Entries

| | | | |
|-----|----|--|----------------|
| Jan | 13 | Jury - Judge - Appr. Verd | p 18 - Book 13 |
| " | 17 | Mov. for new trial | " 30 " |
| " | 19 | Affds filed in support of Mo for new trial | 39 " |
| " | 29 | " " " " " " " " " " " " | 57 " |
| " | 28 | Order granting new trial | 59 " |
| May | 11 | Jury, judge | 94 " |
| " | " | Motion for new trial | 96 " |
| " | 21 | Order overruling | 130 |
| " | " | Order granting appeal | 130 |
| " | " | Appeal bond filed and approved | 130 |
| " | " | Leave to file bill of exceptions | 131 |

B. Ruspel
vs
Or. L. & N. Ry Co.

Instructions

Filed May 11th 1889
D. B. Veazey
Clerk

- 1 N. B. Sullens 1
- 2 Frank Whitworth 2 ✓
- 3 Frank Moss 3
- 4 Henry Marx 4
- 5 Reason Gowen 5 ✓
- 6 M. P. Lynch 6
- 7 ~~T. J. Couch~~
- 8 Jas. Williams 7
- 9 F. Janni 8
- 10 ~~L. J. McCormack~~
- 11 Peter Gutherie 9
- 12 ~~J. M. Bailey~~
- 13 ~~W. R. Vreeland~~
- 14 B. F. Wilson 10
- 15 Green Medley 11
- 16 Louis Hartman 12
- 17 ~~F. H. Williams~~
- 18 ~~W. L. Stone~~

all Regimen

E. Oruphol

vs

Wm. J. Wood. Esq. &

Dance

Filed May 12/87

W. J. Wood
Esq.

We the jurors find the issues
for the plaintiff and assess
his damages at the sum of

Thirty Five
dollars

N. B. Sullivan Foreman

6 Rubbeel

²⁰
Orlsmst Ry Co

Vordier

Filed May 11th 1887

D B Deasey
C. H. K.
w.

State of Missouri
County of Jefferson

In the Circuit Court
May Term 1887

C. Ruppel
Plaintiff

The St. Louis & M. D. R. Co

Defendant

Motion for a New Trial

Now comes the defendant by
attorney and moves the court
for a new trial in this case
for the following reasons
First Because plaintiffs petition
sets & state facts sufficient to
constitute a cause of action
Second Because the court erred
in refusing to instruct the
jury as requested to do by the
defendant

Third Because the court erred
in the instructions given to
the jury in its own motion
against defendants objection
Fourth Because the verdict &
judgment are for the plaintiff
why they should have been

Affidavit for Appeal to Supreme Court.

Christopher Ruppel
Plaintiff,

vs.

ST. LOUIS IRON MOUNTAIN & SOUTHERN RAILWAY CO.
Defendant.

In the Circuit Court for

Jefferson County,

STATE OF MISSOURI.

AFFIDAVIT for the ST. LOUIS, IRON MOUNTAIN & SOUTHERN RAILWAY COMPANY, Appellant: *W. H. Burtin* Agent for Appellant states that the appeal in the above entitled cause is not made for vexation or delay, but because this affiant believes that the said appellant is aggrieved by the judgment and decision of the above named court in said cause.

Subscribed and sworn to before me, this *21* day of *May* 188*7*

W. H. Burtin
Davidson Notary Public
Clerk.

Know all Men by these Presents:

That we, the ST. LOUIS, IRON MOUNTAIN & SOUTHERN RAILWAY COMPANY, as principal, and

A. H. Thomas

as sureties, are held and firmly bound unto

Christopher Ruppel

in the sum of

two hundred and fifty Dollars, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents, Sealed with our seals, and dated at St. Louis, this

18 day of *May* A. D. 18*87*

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH That whereas the St. Louis, Iron Mountain and Southern Railway Company,

has appealed from the judgment rendered against it and in favor of

Ruppel in the Circuit Court for *Jefferson* County, for the sum of *250* dollars, and

together with costs.

NOW, if said appellant shall prosecute said appeal, with due diligence, to a decision in the *St. Louis Court of Appeals*, and shall perform such judgment as shall be given by the *Said Court* or such as the *Said Court* may direct the *Circuit Court* of *Jefferson* to give, and, if the judgment or any part thereof be affirmed, will comply with and perform the same, so far as it may be affirmed, and pay all damages and costs which may be awarded against it by the *Said Court* then this obligation to be void, otherwise to remain in full force and effect.

St. Louis, Iron Mountain & Southern Railway Company.

By *A. H. Thomas* 2nd V. President.

A. H. Thomas [SEAL.]

[SEAL.]

[CORPORATE SEAL.]

[SEAL.]

ATTEST:

Secretary of said Corporation.

No.

W. Duval
Plaintiff,

vs.
Atkins' Iron
Mountain & Southern
Railway
Defendant.

AFFIDAVIT AND BOND.

W. G. ...
Appellant.

Filed in the office of the Clerk of the

Court:

this day of 1888

CLERK,

Filed May 21st 1889
W. G. ...
clerk

Witnesses for Puffin

Tom Vaughan
Frank Vaughan
Ben Rothman
Frank Jarvis

C. Ruppel Plaintiff } Damages for killing a Cow
 vs } In the Circuit Court, May 5.
 Sta. J. M. So. Ry. Co. N.Y. } 1887. Verdict by a jury
 & judgment for Plaintiff for \$70 - Book 13 page 94
 Bill of Costs

Thos. A. Williams J. P.
 Summons³⁵ / Docs & Index²⁰ / Judgment⁵⁰ / \$1.00-
 Cert to Affd¹⁰ / Bond⁵⁵ 50 1.55-

E. Forrest Constable, Summons³⁰ / 8 Miles⁴⁰ ✓ .70

Chas. Horne Clerk, 4 files²⁰ / 1 spa²⁵ / 2 Docs¹⁰ ✓ .55-

D. B. Veazy Clerk

July 9 9 files⁴⁵ / 1 spa²⁵ / Appr²⁰ / Swear & eat Jury⁷⁵ / 1.65-

Verd³⁰ / Judgment⁵⁰ / Docs Judgment¹⁰ / No. Newtrial²⁰ / 1.10

" 19 Affd in support of No. for newtrial filed & eat .30

" 27 " " " " " " .30

Order granting newtrial²⁰ / 3 affd & Cert⁷⁵ / .95-

May 9 Docs¹⁰ / Swear & eat Jury⁷⁵ / Verd³⁰ / Judgment⁵⁰ / 1.65-

Docs Judgment¹⁰ / Motion for newtrial²⁰ / .30

Ms. returned³⁰ / Cert affd & Bond³⁰ .60

Ord appr. bond³⁰ / Ord grant appeal³⁰ .60

dear to file fees³⁰ / 42 fees¹⁰ 40

Making Costs⁵⁰ / Copy⁵⁰ / Cert⁵⁰ 1.50

9 affd with claims⁴⁵ / Cert set Judgment²⁵ 70

Cert Copy Judgment³⁵ / Cert⁵⁰ 85 ✓ 10.90

Geo. W. McFry Sheriff

12 spas^{6.50} / 11 Calls⁵⁵ ✓ 6.55-

Carried forward 20.25-

Brok forward
Witnesses -

\$20.25-

| | | | | | | |
|-------|----------------------------|---------------------------------|-------|-------------------------------|------|--------|
| Jan 5 | Frank Jarvis 2 days | ²⁰⁰ / ₁₀₀ | 12 mi | ⁶⁰ / ₆₀ | 260 | |
| May " | Same 1 " | ¹⁰⁰ / ₁₀₀ | 16 " | ⁸⁰ / ₈₀ | 180 | 4.40 ✓ |
| Jan " | John Patton 2 " | ²⁰⁰ / ₂₀₀ | 8 " | ⁴⁰ / ₄₀ | 240 | |
| May " | Same 1 " | ¹⁵⁰ / ₁₅₀ | 16 " | ⁹⁰ / ₉₀ | 180 | 4.20 ✓ |
| Jan " | B. Rothman 2 " | ²⁰⁰ / ₂₀₀ | 10 " | ⁵⁰ / ₅₀ | 250 | 2.50 ✓ |
| May " | Lizzi Mohr 1 " | ¹⁰⁰ / ₁₀₀ | 16 " | ⁹⁰ / ₉₀ | 180 | 1.80 ✓ |
| " " | Robt Corsh 1 " | ¹⁰⁰ / ₁₀₀ | 10 " | ⁵⁰ / ₅₀ | 150 | 1.50 ✓ |
| " " | Thos A. Williams 1 " | ¹⁰⁰ / ₁₀₀ | 12 " | ⁶⁰ / ₆₀ | 160 | 1.60 ✓ |
| " " | Frank Vaughn 1 " | ¹⁰⁰ / ₁₀₀ | 12 " | ⁶⁰ / ₆₀ | 160 | 1.60 ✓ |
| Jan 5 | Jury Regular for men 1 day | | | | 5.00 | ✓ |

Salesmen

| | | | |
|----------------------|---|------|-------|
| A. Hornum 1 day | ✓ | 1.00 | |
| A. Staat 1 " | ✓ | 1.00 | |
| Lauren Brazier 1 day | ✓ | 1.00 | |
| Wm Husky 1 " | ✓ | 1.00 | |
| Wm Williams 1 " | ✓ | 1.00 | |
| Jos. Metts 1 " | ✓ | 1.00 | |
| Jos Nibbles 1 " | ✓ | 1.00 | 12.00 |

May 5 Jury Regular 12 men ✓ 12.00
\$61.85-

Oct 24 Pd. to Ruppel by ex # 81. \$30=